

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 6153 OF 2006

DATED: 10.8.2006

Between:

Rachamallu Yugender Reddy and 43 others

... Petitioners

and

The State of A.P. rep.by its Secretary, Irrigation and CAD Department,
Secretariat Hyderabad and others.

... Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.6153 OF 2006

ORAL ORDER:

The writ petition is filed, by 43 inhabitants of Pydipalem village, Simhadripuram Mandal, Kadapa District, seeking a declaration that the inaction of the respondents in including the petitioners' property (specified in the annexure to the writ petition) in the "requisition book" for the purpose of acquisition of the lands and structures therein, for the Pydipalem reservoir, a part of Gandikota Lift Irrigation Project, is illegal arbitrary and violative of Article.300-A of the Constitution.

The provocation for the writ petition and for the relief as above sought is the notice dated.01-12-2005 issued by the 4th respondent which (in translation) reads as under:

"This is to inform to the villagers of Paidepalem village and the hamlet Kummaravaripalli that the above villages are going to be submerged due to Paidepalem Reservoir of Gandekota Lift Irrigation Scheme.

For this purposes the measurements, photos and vedigraph of all the structures of these villages was completed by 30-11-2005. Hence hereafter any new constructions or changes to the existing structures should not be done. If any constructions are taken up the Government will not taken responsibility.

The village committee members are requested to take necessary responsibility and cooperate with the Government."

The petitioners state that the respondents had prepared a "requisition book" including therein the lands and structures belonging to the villagers of Pydipalem, which are liable to submersion on account of the Pydipalem Reservoir, for eventual acquisition and that as per the 4th respondent's notice dated.01-12-2005,

measurements, photos and vedigraphs of all the structures of Pydipalem village was completed on 30-11-2005. Petitioners plead that their lands and structures were not recorded in the "requisition book". The petitioners' apprehend that because of the letter of the 4th respondent, if the structures in the petitioners lands are not included in the "requisition book" the petitioners will be deprived compensation for the structures in their lands, in case a notification under Sec. 4(1) of the Land Acquisition Act, 1894 (for short "the Act") is issued at a latter date.

The entire traumatic journey of the petitioners to this court is on account of the wholly vagrant and irrelevant notice issued by the 4th respondent. Despite considerable effort, the learned Government Pleader for Irrigation is unable to inform this Court, under what legal authority the 4th respondent issued the letter dated.01-12-2005. Under the provisions of the Act, the process of acquisition of land (by the power of eminent domain) commences with the issuance of a draft notification under Sec.4(1) of the Act. All earlier administrative exercise is an internal affair of the executive, which neither confers legitimacy on any State action to acquire private property nor determines the period from which the acquisition takes effect law. The 4th respondent's notice dated.01-12-2005 intimating that any new constructions or changes to the "existing structures should not be done" is a notice that has no basis in law and constitutes an unlawful exercise of a non-existent authority by the 4th respondent who even in counter-affidavit filed by himself does not explain the legal basis for issuing such a notice. The learned Government Pleader for Irrigation states that the 4th respondent issued the notice *bonafide* to "save the government". The executive agency of the State is entitled to take measures to safeguard governmental interest only by lawful authority

or under a legislative mandate. Vigilante action by executive authority is wholly unlawful and makes the holder of a public office open to disciplinary action and in the event of a grave conduct even for removal from public office. Sheer adventurism without any foundation in law is not a conduct desirable in public office. The 4th respondent is no exception to this established principle.

In the facts and circumstances of this case no draft notification under Sec.4(1) of the Act is seen to have been issued as on date. As and when acquisition is initiated, the respondents will be legally obligated to include all structures on the property proposed to be acquired as on the date of the notification under sec.4(1) of the Act. This is the legislative mandate. The irrelevant notice of the 4th respondent cannot alter the course of the legislative mandate.

For the aforesaid reasons there is no legal grievance projected by the petitioners warranting adjudication in this writ petition. They have come on an apprehension created wholly on account of the 4th respondent's letter dated.01-12-2005. No relief in specie as prayed for could be granted.

As the petitioners were constrained to approach this Court (being illiterates and residents of villages), on account of the wholly irrelevant notice issued by the 4th respondent; and have suffered considerable expense and injury as a consequence thereof, this Court considers it appropriate to impose costs in an amount of Rs.44,000/-(Rupees Forty four thousand only) payable @ RS.1000/- to each of the petitioners by the State within a period of four(4) weeks from day. It is open to the 1st respondent-State Government to identify the person holding the office of the 4th respondent (who had issued the wholly irrelevant and unlawful notice dated.01-12-2005) and to recover it from him in accordance with and after the due process of law.

The writ petition is accordingly dismissed with costs.

GODA RAGHURAM, J

Date: 10.08.2006

***TSNR**